



General Assembly

Distr.: General
18 June 2014

Original: English

Human Rights Council

Twenty-sixth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo

Addendum

Mission to Azerbaijan^{***}

Summary

This report contains the findings of the Special Rapporteur on violence against women, its causes and consequences, on her visit to Azerbaijan from 26 November to 5 December 2013. It examines the situation of violence against women in the country, taking into account its causes and consequences, and implications for the effective exercise and enjoyment of human rights by women. It also considers the State's responses through the lens of the principle of due diligence to prevent such violence, to protect and provide remedies to women who have been subjected to violence, and to prosecute and punish the perpetrators.

^{*} Late submission.

^{**} The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission only.

GE.14-05673 (E)



* 1 4 0 5 6 7 3 *

Please recycle



Annex

[English only]

**Report of the Special Rapporteur on violence against women,
its causes and consequences, on her mission to Azerbaijan
(26 November–5 December 2013)**

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–3	3
II. Manifestations of violence against women, its causes and consequences	4–26	3
A. Violence against women in the family	5–13	3
B. Violence against women in the community.....	14–20	5
C. Violence against women condoned and/or perpetrated by the State.....	21–23	6
D. Violence against women in the transnational sphere	24–26	7
III. Implications of inequality, discrimination and violence for women's enjoyment of their human rights	27–47	8
A. Civil and political rights	28–33	8
B. Economic rights and the right to development	34–39	10
C. Social and cultural rights	40–47	11
IV. Challenges in fulfilling the State's obligation to eliminate violence against women	48–79	13
A. Prevention.....	53–62	13
B. Protection.....	63–69	15
C. Prosecution and punishment.....	70–74	17
D. Provision of effective redress including reparations.....	75–77	18
E. Remedies for specific groups at risk.....	78–79	18
V. Conclusions and recommendations.....	80–87	19

I. Introduction

1. At the invitation of the Government of Azerbaijan, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted an official visit to the country from 26 November to 5 December 2013.
2. In Baku, the Special Rapporteur held consultations with the Chair of the State Committee for Family, Women and Children's Affairs and officials from the Ministries of Economy and Industry, Justice, Internal Affairs, Labour and Social Protection of Population, Education, Health and Foreign Affairs. She also met with the Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan. She held meetings with representatives of the Judicial Legal Council and the Parliamentary Committee on Human Rights and officials of the State Committee on Refugees and Internally Displaced Persons Issues. She visited a prison, women's shelters, as well as settlements of internally displaced persons (IDPs) in Sumqayit and Qaradag as well as a health centre and a school. During her visits to Khachmaz, Ganja, Lankaran and Sumqayit, the Special Rapporteur met with representatives of the Executive Power, other local authorities and a women's council centre. The Special Rapporteur consulted extensively with civil society and victims in different locations within the country.
3. The Special Rapporteur is grateful to the United Nations Country Team for its support prior to, during and after her visit. She is grateful to all interlocutors, including survivors of violence who shared their experiences with her. She looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of her recommendations.

II. Manifestations of violence against women and girls, its causes and consequences

4. According to the majority of interviewed stakeholders, violence against women in Azerbaijan is widespread and occurs in both private and public spheres. It seems to be underpinned by the persistence of patriarchal social norms, deeply-rooted gender stereotypes and misconceptions, as well as customary practices that are harmful to women. Azerbaijan has strong cultural traditions that place a high value on family and community.

A. Violence against women in the family

5. According to numerous interlocutors, the physical, sexual and psychological abuse of women in the private sphere is usually tolerated, including by the community. The perpetrators are mainly intimate partners, but sometimes close family members and family friends.
6. According to statistics from the Ministry of Internal Affairs, from 1 January 2011 to 30 November 2013, there were a total of 4,053 reported cases of domestic violence. These statistics are not disaggregated on the basis of sex or on the relationship between the victim and perpetrator.

7. The 2008 survey on violence against women¹ provided extensive information on the root causes and patterns of violence in Azerbaijan. Almost a quarter of the respondents revealed having suffered from the traumatic experiences of physical, sexual and emotional violence since the age of 15 years by their partner or others. Jealousy was cited as the cause of 21 per cent of cases of violence. The report also reflects significant regional differences in the prevalence and patterns of intimate partner violence against women, ranging from 3 per cent of interviewees in Dakhlik Shirvan, 9 per cent in Baku, 19 per cent in Lankaran and 29 per cent in Absheron. In Quba-Khachmaz, 12 per cent of the women interviewed reported cases of sexual violence. Forced intercourse was mentioned as the most common act of sexual violence. 10 per cent of the women interviewed experienced sexual abuses as children, most frequently alleged to be perpetrated by family members (stepfather, father or other male family member) and male friends of the family. The survey identified Shaki-Zaqatala, Baku and Ganja-Qazakh as areas of high risk of sexual abuse of girls before the age of 15.

8. IDP and refugee women who had to flee their homes as a consequence of the conflict over the Nagorno-Karabakh region² registered higher prevalence rate of intimate partner violence (26 per cent) compared to respondents never subjected to forced displacement. The *Azerbaijan Human Development Report 2007* demonstrated that the prevalence of intimate partner violence among women IDPs and refugees is 7 per cent higher than in other environments.³

9. According to the 2008 survey, emotional abuse is the most common form of intimate partner violence. Insults (22 per cent), belittling (13 per cent) and intimidation (11 per cent) were the most frequently reported. 81 per cent of women reported being exposed to some form of controlling behaviour, with higher prevalence in the rural areas than in urban settings. 53 per cent of women revealed that their husband or partner compelled them to request permission to leave the house.

10. The survey findings include data on early marriage, the absence of official marriage registration, partner's low level of education and, to some extent, the woman's lower educational background as factors that were likely to increase the risk of intimate partner violence. Very often, interviewees considered the beating justified, in particular in cases when the woman was unfaithful (32 per cent), when the woman went out without informing the husband (24 per cent) and when the wife disobeyed her husband (18 per cent). Among the circumstances leading to incidents of intimate partner violence, interviewees mostly indicated economic problems and alcohol abuse.

11. The survey also indicates that women victims of violence are considerably more likely to have suicidal thoughts or to attempt suicide. Among women who experienced physical or sexual violence, 18 per cent reported suicidal thoughts and 8 per cent had attempted suicide. The State Committee for Family, Women and Children's Affairs informed the Special Rapporteur that 87 women had committed suicide in 2011 and 105 in 2012.

12. A considerable group of survey respondents were not against legal intervention in the situations of domestic violence, while a minority considered domestic violence to be a

¹ United Nations Population Fund (UNFPA), *2008 National Survey Report on Domestic Violence against Women in Azerbaijan*, 2012.

² On the conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan, please see Security Council resolutions 822, 853, 874 and 884 of 1993 and General Assembly resolution 62/243 of 14 March 2008.

³ United Nations Development Programme (UNDP) Azerbaijan, *Azerbaijan Human Development Report 2007, Gender Attitudes in Azerbaijan: Trends and Challenges* (2007), p. 65.

private issue not to be regulated by law. Many women view violence from their partner as part of family life that should be kept undisclosed and free of outside intervention. About 61 per cent of women subjected to partner abuse did not tell anyone about the violence. Less than 1 per cent of them requested the assistance of public institutions. Their reasons include the fear of retaliation and escalation of violence, shame and fear of impact on the family's reputation, fear of not being believed, fear of being blamed, the belief that official reporting would not help (as reflected in the experiences of other women), fear that it would end the relationship and fear of losing their children.

13. According to the survey, and as confirmed through interviews with survivors, the women who sought State assistance and services, or who left home at least for one night, suffered from increased violence and were concerned for their own and their children's safety.

B. Violence against women in the community

14. Data from the Ministry of Internal Affairs reflects that from 1 January 2011 to 30 November 2013, there were a total of 16,253 cases of crimes against women, of which 9,140 cases were classified as violence against women. The same sources indicate 76 cases of rape during this period as well as 193 killings of women. Unfortunately, the lack of disaggregated data precludes an analysis of the gendered nature of these crimes.

15. The high prevalence of early and/or forced marriages in Azerbaijan is a source of concern, and during the visit, it was often referred to as a major societal problem. It is difficult to obtain accurate statistics on early marriages, given their illegal nature. According to the State Committee for Family, Women and Children's Affairs, more than 5,000 girls were victims of early marriages in 2013, while the approximate figure for 2012 was 4,000. Findings suggest that the largest number of child marriages occur in Absheron region and Lankaran, followed by Quba and Agstafa.⁴ The majority of child marriages are alleged to take place against the girls' will or under parental pressure.⁵ Survey participants listed, among the reasons for child marriages, parents' concern for the daughter's future (45 per cent), traditions and customs (29 per cent) and the girls' own wish (19 per cent). The family's economic situation was the least cited (7 per cent) as a reason for early marriages.⁶

16. Despite the efforts undertaken by the authorities, in particular through the modification in 2011 of the Family Code which increased the age of consent to marriage to 18 years for both girls and boys, early/forced marriages have continued to endanger the lives of girls, including placing them at a greater risk of domestic violence, marital rape or early pregnancies. The right to life, health and well-being, education and the enjoyment of their childhood are all negatively impacted. The Special Rapporteur raised the issue of accountability, as provided for in the Criminal Code, of religious leaders who conduct early marriages, but also of parents who collude in these practices. She also raised concerns about the adverse impact and consequences of unregistered religious marriages. Such marriages place women in a particularly vulnerable position, with no protection of their rights.

17. Numerous stakeholders, including the State Committee for Family, Women and Children's Affairs, the Office of the Commissioner for Human Rights (Ombudsperson), international organizations and local civil society organizations, have engaged in

⁴ UNICEF, *Study on Child Marriages in Azerbaijan* (2009), p. 5.

⁵ *Ibid.*, p. 37-41.

⁶ *Ibid.*, p. 42.

awareness-raising and educational campaigns to prevent and combat early marriages. However, according to some sources,⁷ these events are mainly carried out in the cities and not in rural areas, where the prevalence of early marriages is higher. The increasing prevalence of child marriages indicates the re-emergence of traditional values and attitudes.

18. The Special Rapporteur also expressed serious concerns at the persistence of prenatal sex selection,⁸ whereby families choose to abort the pregnancy if they are expecting a girl child. According to the statistical data on sex ratio at birth from the State Statistical Committee, from 1990 to 2010, the sex ratio at birth varied between 105 and 106 males to 100 females in early 1980s while these figures started to increase over the years and reached 120 male to 100 females in 1998, with a minor decline observed in recent years. According to sources, this phenomenon seems to be more prevalent in urban areas.⁹ Azerbaijan is alleged to have the second highest sex-selective abortion rate after China.¹⁰

19. Cultural biases placing greater value on sons than daughters, as well as economic concerns (such as, for example, the perception that male children are more likely to provide financial support in the future) can lead to sex-selective abortions.

20. The Special Rapporteur was not provided with any official data on sexual harassment. Most interviewees stated that this was not a problem in the country. It is unclear whether it is a hidden or unrecognized manifestation of violence against women.

C. Violence against women condoned and/or perpetrated by the State

21. The Special Rapporteur was given access to the only women's prison in Azerbaijan, which is located in the centre of Baku and currently holds 370 prisoners. None of the women prisoners interviewed reported ill-treatment, but the Special Rapporteur expressed concerns at the charges leading to women being imprisoned, and the duration of the sentences, most of which are of 10 years and more.¹¹ Among the most common charges are crimes connected to drugs and fraud, disorderly conduct (also referred to as "hooliganism"), larceny and murder, often linked to cases of domestic violence, as confirmed during interviews with women prisoners. According to statistics from the Ministry of Internal Affairs, 87 women prisoners had guardianship over teenagers. The Special Rapporteur was informed that a number of women with young children had to serve prison sentences, although article 79 of the Criminal Code allows for the possibility of postponing the sentence of a pregnant woman or a woman having children under the age of 8.

⁷ Counterpart International *et al.*, "Alternative monitoring report to the Committee on the Elimination of All Forms of Discrimination Against Women in Azerbaijan (CEDAW)", Baku, 2013. Available from tinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/AZE/INT_CEDAW_NGO_AZE_16008_E.pdf.

⁸ The draft law on reproductive health that has been before the Parliament since 2008 would prohibit defining the sex of a child and artificial termination of pregnancy because of sex, except for cases when transmission of hereditary disease is high.

⁹ United Nations Country Team (UNCT) Azerbaijan, "Country gender briefing kit", 2012.

¹⁰ K. Gilles and Ch. Feldman-Jacobs, "When technology and tradition collide: from gender bias to sex selection", Policy Brief (Population Reference Bureau, September 2012). Available from www.prb.org/pdf/12/gender-bias-sex-selection.pdf.

¹¹ According to the data provided by the Ministry of Internal Affairs, 16 women were sentenced to up to 3 years' imprisonment, 50 up to 5 years, 223 up to 10 years, and 81 women were sentenced to more than 10 years' imprisonment.

22. During her visit of the prison, the Special Rapporteur expressed concern at the fact that a minor was imprisoned together with adult women. She was informed that the number of women offenders below 18 is too small to warrant a separate detention facility,¹² and minor girls are therefore detained in the women's prison. A separate correctional facility does exist for minor boys. The failure to have a separate facility for girl juvenile offenders is in breach of the country's national legislation as well as the country's international obligations. According to article 434.3 of the Criminal Procedure Code of Azerbaijan, juveniles should be kept separately from adults in detention facilities.¹³

23. The Special Rapporteur had requested a visit to a detention centre for those awaiting trial, but unfortunately access was not granted. The findings of the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment states that "persons deprived of their liberty by the police in Azerbaijan run a significant risk of being ill-treated while in police custody (in particular when being interrogated)".¹⁴ The report also noted indications of different forms of humiliation and threats to use physical force or sexual violence against detainees or their relatives.

D. Violence against women in the transnational sphere

24. Despite the State's efforts in combatting trafficking in persons, including the 2005 Law on Combating Trafficking in Human Beings, numerous stakeholders have expressed concern at the increasing phenomenon of trafficking of women and girls. Azerbaijan is both a source and a transit country for trafficking for the purposes of commercial sexual exploitation and forced labour. According to the data from the Ministry of Internal Affairs, 704 cases of trafficking of women were reported between 1 January 2011 and 30 November 2013.

25. Azerbaijan has, per capita, the highest number of displaced persons in the world. According to the Government, at the time of the visit there were approximately 1 million refugees and IDPs in Azerbaijan, with the vast majority displaced during the early 1990s. The conflict in and around Nagorno-Karabakh in 1992–1993 has had grave consequences for the displaced communities, including bodily integrity violations, loss of family members and loss of material possessions. These factors, among others, continue to pose numerous challenges for these communities and also for the Government of Azerbaijan. Sources indicate that women and girls from IDP communities are subjected to multiple forms of violence and discrimination, including domestic violence, early marriages and sexual harassment. During her interviews with women from IDP communities, the Special Rapporteur noted that they were particularly reluctant to discuss the issue of gender-based violence, whether intrafamily and/or intracommunity. The interviewees did not disclose or deny the existence of violence against women within their communities, but they did not deem this to be of importance for the discussion with the Special Rapporteur, considering their current living circumstances.

¹² According to the information provided by the State, the figure is two offenders in the last five years.

¹³ The Special Rapporteur was informed that a newly constructed detention facility for women in the Zabrat settlement of Baku would have adequate conditions for keeping girls separate from adults. It is hoped that such facility is in line with international norms and standards.

¹⁴ Council of Europe, "Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 November to 6 December 2002", CPT/Inf(2004)36. Available from www.cpt.coe.int/documents/aze/2004-36-inf-eng.htm.

26. The precarious conditions in which many of these communities live greatly limit the realization of numerous rights, including access to substantive services. While the Government has made efforts to address access to education, employment, health care, psychological support and housing for those living in the camps, the Special Rapporteur voiced her concerns at the vulnerable and marginalized situation of women and children in these communities, especially due to the challenges of their current living conditions. The women are largely responsible for caring for the home and family members, including those who have been disabled as a result of the conflict, without adequate resources or access to the appropriate infrastructure.¹⁵ The Special Rapporteur witnessed and heard distressing accounts of hardships and the challenges of living in camps, dormitories and "hotel" accommodation. She also heard testimonies of women from "martyr families" who are still waiting for the return of their missing relatives. A common thread of concern was in relation to the "right of return" to their places of origin and the lack of political action at the international level to sort out the issue of occupation of Azerbaijani land.

III. Implications of inequality, discrimination and violence for women's enjoyment of their human rights

27. During her visit, the Special Rapporteur observed the gaps that still remain with regard to the full enjoyment of women's rights as well as the implications of continuing inequalities, discrimination and violence. In Azerbaijan, the major challenges are reflected in the discrepancy between the legal framework and its implementation, and the reality of widespread gender stereotyping. Despite the fact that the equality of men and women is affirmed in the Constitution and in other legal texts – including the recent Law on Guarantees of Gender Equality – there is still considerable *de facto* gender inequality in the political, economic and social spheres.

A. Civil and political rights

28. With regard to women's participation in political and public affairs, out of 36 ministerial posts, only 1 woman holds such a position in Azerbaijan: the Chairperson of the State Committee on Family, Women, and Children's Affairs. This places the country at the very bottom of the global scale, according to the latest available statistics.¹⁶ Women are underrepresented in elective offices and the number of women appointed to senior decision-making posts in the Government appears to be low. Currently, women head only two subdivisions of the Presidential Administration, whose main task includes the preparation of bills for its submission to Parliament. These include the Secretariat and the Department of Humanitarian Policy Issues.¹⁷

29. Despite some progress registered in the past years, only 19 out of 124 parliamentarians (approximately 15 per cent) are women, including the Vice-Speaker. It appears that there has been a significant decrease in political participation of women since the country's independence in 1991, leading to a drop from 39 per cent of women

¹⁵ United Nations Development Fund for Women (UNIFEM), *The Status of IDP Women in Azerbaijan: a Rapid Assessment* (Baku, 2006).

¹⁶ Inter-Parliamentary Union/UN-Women, "Women in politics: 2014, situation on 1 January 2014". Available from www.ipu.org/pdf/publications/wmnmap14_en.pdf.

¹⁷ President of Azerbaijan, "Administration: structure". Available from en.president.az/administration/structure/.

parliamentarians in 1991 to 6 per cent in 1992.¹⁸ At the municipal level, however, significant progress has been achieved, with the representation of women increasing from 4 per cent (2004 elections) to 26.5 per cent (2009 elections).¹⁹

30. With regard to the representation of women in the judiciary, according to Government data, only 12 per cent of judges are women (63 women out of 525 judges). Six of the 40 judges the Supreme Court are women, two of nine judges of the Constitutional Court are women, one holding the position of Deputy Chairperson, and One out of five chairs of Court of Appeal is a woman. Also, three Courts of First Instance are headed by women. The position of the Commissioner for Human Rights (Ombudsperson) is held by a woman. According to the data provided by the Ministry of Education, only one woman heads a department within that Ministry.

31. The Special Rapporteur notes that the right of access to justice and to justice itself for women is seriously compromised, due to a range of factors. The first challenge lies in the significant underreporting of cases of violence against women to the police. Victims are very often reluctant to report, due, *inter alia*, to the fact that violence against women has been normalized, and even sometimes accepted, by the women themselves, but also due to the responses of authorities who promote notions of family unity, shame and stigma. The authorities, including Family Support Centres and the police, prefer not to intervene as they consider violence against women a private matter that should be solved within the family. Cases of violence tend therefore not to be prosecuted in most instances, protection orders are not granted and divorce is not easily accessible, even when requested due to violence in the marriage.

32. Despite numerous training sessions conducted by the Ministry of Justice, judges do not systematically refer to the new laws on gender equality and domestic violence. The Special Rapporteur received complaints about the poor quality of legal representation that is available from the State's legal aid services. This results in perceptions of a lack of justice, especially for the women interviewed in prison. The hiring of private lawyers by some women leads to the conclusion that women from precarious socioeconomic backgrounds are less likely to have their rights properly defended because of their dependence on poor quality legal representation.

33. During and after her visit, the Special Rapporteur was informed that some independent non-governmental organizations (NGOs), in particular human rights defenders, were facing numerous challenges, including harassment, intimidation and reprisals related to their activities. She personally witnessed intimidating behaviour by local authorities, including attempts to tamper with the organization of various meetings and misinformation regarding these meetings. These concerns were also echoed in the final outcome of the Universal Periodic Review of Azerbaijan (second cycle). Several allegation letters by Special Procedures mandate holders were sent to the Government in this regard. The Special Rapporteur also noted the cumbersome requirements imposed on NGOs in respect of registration/accreditation processes, and also their reporting obligations to numerous authorities, especially when funded by the State. She also received allegations of Government bias in favour of some NGOs.

¹⁸ See footnote 9 above.

¹⁹ United Nations Azerbaijan, "Post-2015 Development Agenda: 'The future we want': national consultations in Azerbaijan, final report", Baku, 2013, p. 45.

B. Economic rights and the right to development

34. Following its independence in 1991, Azerbaijan experienced economic decline and instability, aggravated by the conflict in and around the Nagorno-Karabakh region. The country's economy then entered a period of dynamic economic growth in 1996, primarily boosted by the exploitation of natural oil and gas.²⁰ The level of poverty decreased from 49 per cent in 2001 to 6 per cent in 2012 as a result of the Government's reformed social security and pension system and targeted social assistance.²¹ As of September 2010, Azerbaijan's basic pension was US\$106. The new pension system provides better benefits to employers, insured persons and pensioners.²² Nonetheless, women continue to face a range of difficulties in accessing equal employment opportunities, benefiting from the economic growth and achieving sustainable development goals.

35. The Government acknowledges the necessity of women's economic development and empowerment. Some initiatives by the State include attempts to decrease the burden of family responsibility on women through the development of childcare facilities and opportunities that have been created for women entrepreneurs to access capital. According to the Ministry of Economy and Industry, of the half a million entrepreneurs that are currently registered, 17 per cent are women.

36. Women are still significantly underrepresented in management positions in the private sector, and tend to work in lower-paying sectors. In choosing their profession, women are often driven by the social stereotypes about "male" and "female" professions. Women represent the majority of the workforce in fields such as education (71.7 per cent), social work (78.1 per cent) and arts and entertainment (63.8 per cent). Men continue to dominate fields such as trade and management and in technical domains such as engineering and construction.²³ The lack of incentives and differentiated wages also represent gender inequality and discrimination as factors that perpetuate segregation in the labour market.²⁴

37. The Employment Strategy of the Republic of Azerbaijan for 2006–2015 acknowledges that women are usually employed in activities with low status and low wages. The document states that "[s]hortage of work places for women today is mostly reflected in insufficiency of flexible jobs (part-time, flexible working days and flexible schedules, work at home, etc.) relevant to the role of women both in society and in family".²⁵ The Special Rapporteur expressed concern at the Government's ambivalent approach towards women's empowerment, fostering family-friendly employment policies, while cultivating harmful stereotypes about gender roles.

38. According to the State Statistical Committee, the unemployment rate for women is 6.1 per cent (4.3 per cent for men).²⁶ However, this does not reflect women working in the informal sector, such as, domestic or agricultural workers. Other sources highlight some

²⁰ *Ibid.*, p. 14.

²¹ *Ibid.*

²² UNDP Azerbaijan, "Pension reforms to serve and protect the vulnerable". Available from <http://www.az.undp.org/content/azerbaijan/en/home/ourwork/democraticgovernance/successstories/title-of-my-success-story/>.

²³ State Statistical Committee of the Republic of Azerbaijan, "Women and men in Azerbaijan: 2012". Available from www.stat.gov.az/source/gender/indexen.php.

²⁴ See footnote 19 above.

²⁵ Citizens' Labor Rights Protection League and Open Society Institute – Assistance Foundation, *Employment Policy in Azerbaijan* (Baku, 2008), p. 14. Available from clrpl.az/upload/file/Employment%20policy%20in%20Azerbaijan.pdf.

²⁶ See footnote 23 above.

discrepancies in these statistics on women and work. The 2008 Survey on Violence Against Women showed, for instance, that only 21.1 per cent of women had full-time, part-time or seasonal jobs.

39. An amended version of the State Programme for the Improvement of the Living Conditions of Refugees and IDPs and the Increase of Employment among them was approved in 2007 with the aim of generating more employment for IDPs by 2011, and also building infrastructure, including houses, schools and hospitals. Nonetheless, it is reported that unemployment is more widespread among IDPs than the local population. In 2007, the Office of the United Nations High Commission for Refugees (UNHCR) reported that adolescents aged 14 to 17 and children aged 10 to 13 cited their parents' unemployment and resulting household poverty as a barrier to their continuing education.²⁷ In addition, the remote location of some settlements limits their participation in economic life. The limited availability of vocational training, microfinance and support in establishing small- to medium-sized businesses also hampers further economic development.²⁸

C. Social and cultural rights

40. Pervasive gender stereotyping and attitudes, whether in the media, in the community and even in official documents, was highlighted as an impediment to women enjoying their human rights. Numerous interlocutors mentioned the re-emergence of traditional, patriarchal beliefs and practices since the independence of the country. It was stated that "tradition" dictates that men are expected to be the decision makers, they are the holders of power within society and the family, they are supposed to be the main source of income and also they are not supposed to take on any household work or child-rearing responsibilities. On the other hand, women are above all mothers, nurturers, kind, obedient, caring and inferior. The consequence is that gender stereotypes continue to reinforce differences between men and women, and also impose gender-specific roles in terms of career choices, employment, education and leisure. Thus there are significant discrepancies between *de jure* and *de facto* equality in Azerbaijan.²⁹

41. The 2009 Law on Education stipulates that one of the main principles of the State educational policy is "[e]quality – creating equal opportunities for all citizens to exercise their right to receive education".³⁰ According to this law, primary and secondary education is mandatory and free of charge, but inadequate funding from the State budget requires families to pay for expenses, including uniforms, tutoring fees, informal payments for maintaining, cleaning and heating classrooms, as well as gifts and bribes for teachers.³¹

42. Azerbaijan has a high literacy rate. The *Azerbaijan Multiple Indicator Cluster Survey 2000* of the United Nations Children's Fund (UNICEF) revealed that women are slightly less likely than men to be literate (93 per cent compared to 98 per cent) and that the gender disparity in literacy rates is more obvious in rural areas, where only 88.6 per cent of women are literate versus 96.4 per cent of men. The survey suggests there is a high dropout rate for girls between grades 8 and 11, and some households mainly in rural areas or IDP/refugee camps may stop sending girls to school when they reach puberty, in order for

²⁷ UNHCR, *Azerbaijan: Analysis of Gaps in the Protection of Internally Displaced Persons (IDPs)* (2009), pp. 43–44. Available from www.unhcr.org/4bd7edbd9.pdf.

²⁸ *Ibid.*, p. 9.

²⁹ See footnote 9 above.

³⁰ Article 3.0.3. Available from www.edu.gov.az/view.php?lang=en&menu=72&id=5244.

³¹ According to interviewees.

them to do domestic chores and be prepared for marriage.³² According to official information, in 2012–2013, approximately 50 per cent of university students were women.

43. Despite the efforts undertaken by the Government towards labour and social protection, including targeted social allowances and assistance mechanisms, the social protection system is inadequate, particularly for women working in the informal sector. The *Azerbaijan National Human Development Report 2007* revealed that 48.7 per cent of women mentioned their insufficient economic resources as a reason why they chose not to seek medical treatment.³³ The issue of widespread corruption, particularly affecting State institutions, was repeatedly emphasized during the visit as one of the scourges of Azerbaijani society, and was highlighted as a major obstacle to equal access to all State services, including the education and health sectors.

44. The 1999 Law on the Social Protection of Internally Displaced Persons and Persons equated to them grants IDPs the right to free temporary accommodation, assistance in finding employment, free health care, social assistance and pensions, and free education, among other things. Despite legislation granting free health care, IDPs generally pay the same official and unofficial fees as other citizens.³⁴ During her visit to a settlement in Sunqayit, the Special Rapporteur observed and also heard testimonies that reflect the precarious living conditions of many IDPs and the difficulties that women face in accessing quality and specialized health services, including for their children.

45. Gender stereotypes are present in educational materials, and also generally in the media. According to the UNCT, the textbooks recommended by the Ministry of Education replicate existing stereotypes, presenting men as leaders in power-related positions or in male-dominated professions, whereas women are depicted as housewives, teachers, librarians, cleaners, cooks and doctors. This was corroborated by representatives of the Ministry of Education who informed the Special Rapporteur that the review of textbooks was under consideration.

46. The Special Rapporteur noted the low divorce rate in Azerbaijan (1.2 per 1,000 people annually in 2012 according to information provided by the State). Reportedly both men and women try to avoid divorce, which is considered to be a socially undesirable resolution of marital tensions and conflicts. Where it does occur, women suffer greater social stigma and are usually blamed for the failure of the marriage.

47. The cultural and social norms shaping a society have a significant impact on the effective implementation of the legal framework. Women's role in influencing such norms is crucial, but is dependent on whether gender equality prevails and whether the status of women allows for their effective participation. As indicated above, women's participation in promoting a culture of equality is limited by the dominant patriarchal culture that is deeply entrenched and accepted at many levels.

³² UNICEF, *Azerbaijan Multiple Indicator Cluster Survey 2000*, (Baku, 2000), p. 23. Available from www.childinfo.org/files/Azerbaijan.pdf.

³³ See footnote 3 above, p. 47.

³⁴ See footnote 27 above.

IV. Challenges in fulfilling the State's obligation to act with due diligence to eliminate violence against women

48. States are required to exercise due diligence to prevent and respond to all acts of violence against women. A comprehensive system of prevention and protection, ensuring accountability, the mitigation of harm and adequate redress, must be the norm.

49. During her visit, the Special Rapporteur observed the positive developments and the challenges faced by the State in fulfilling its international obligations to prevent, protect, investigate, prosecute, punish and ensure effective remedies for acts of violence against women, as provided for in the Declaration on the Elimination of Violence against Women.

50. The Government has committed to protecting and promoting the rights of women and girls through the ratification of numerous international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women.

51. The State Committee for Family, Women and Children's Affairs, established in 2006, is the central body responsible for the implementation of Azerbaijan's international obligations with regard to women's rights and its gender policy. The Committee is mandated to promote gender mainstreaming in all national policies, programmes and action plans. This is reportedly done through training of public servants on gender equality issues; research on gender-related issues; the promotion of data collection and gender-disaggregated statistics; and the organization of workshops, round tables, seminars, and conferences on gender issues.

52. The Special Rapporteur stressed that, while the leading and coordinating role of the Committee regarding gender issues is commendable, the promotion and protection of women's rights remains the responsibility of all State actors. While staff members are designated as gender focal points in each ministry, they have to undertake this role in addition to their existing tasks. The appointment of dedicated gender focal points would allow for a substantive and holistic focus on the promotion, protection and fulfilment of women's human rights.

A. Prevention

53. Measures by which States can fulfil their due diligence obligation to prevent violence against women include the enactment of laws, policies and programmes; the development of awareness-raising campaigns; the provision of trainings for relevant professionals; and the development of integrated strategies to co-ordinate multisectoral approaches to addressing violence against women.

54. Numerous laws, policies and programmes have been developed to address women's rights issues generally, and violence against women specifically. These include, *inter alia*, the Law on Guarantees of Gender Equality (2006), the Law on Prevention of Domestic Violence (2010), the Family Code of 2000 (updated in 2011), the Criminal Code (2000) and the Law on Combating Trafficking in Human Beings (2005).³⁵ Azerbaijan adopted various policies relevant to gender mainstreaming and human rights. Some of these include: the State Program on Poverty Reduction and Sustainable Development (2008–2015), the Employment Strategy of the Republic of Azerbaijan (2006–2015), the National Program for

³⁵ According to article 12 of the Constitution, the rights and freedoms contained in the Constitution shall be applied in accordance with the international treaties to which the country is a party.

Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan (2011) and the "Azerbaijan 2020: Look into the Future" Concept of Development. The Post-2015 Development Agenda, developed by the UNCT and approved by the Government in August 2013, also contains a section on gender equality and women empowerment. The Special Rapporteur was informed that a draft national action programme against domestic violence had been developed, but has not been adopted yet.

55. The Law on Prevention of Domestic Violence places special emphasis on prevention measures. These include legal measures, such as the criminal prosecution of cases, accountability for perpetrators and the executions of court decisions, and social measures, including the provision of shelter, legal and medical assistance for victims, as well as continuing education and assistance in finding employment. Informative actions, such as awareness-raising and public education activities, as well as the registration of abusers for prevention and deterrence purposes, are also anticipated in the law.

56. It is of concern that the law does not fully criminalize domestic violence, but rather establishes that only those complaints that "contain elements of composition of crime" will be reviewed under the criminal procedure legislation. "Relevant executive authorities" will review complaints that are deemed not to contain such elements, and such complaints will only be investigated with the consent of the victim or his or her legal representative. The law does not distinguish which acts of domestic violence will be subject to criminal prosecution and which will not.

57. Following the adoption of the Law on Prevention of Domestic Violence, a number of decisions and/or orders were issued by the Cabinet of Ministers to facilitate its implementation. These include the rules on the operations of the support centres for victims of domestic violence and the rules for accreditation of non-State support centres for victims of domestic violence (25 April 2012); the rules for handling referrals of cases of domestic violence where the acts are not regarded as of a criminal nature (24 February 2012); the rules for organization and operationalization of the database on domestic violence (19 December 2011); and the rules guiding organization of the prophylactic registry of the persons committing domestic violence and correctional-preventive work with them (19 December 2011).³⁶

58. As regards forced and early marriages, the Family Code was amended in 2011 to establish the legal age of marriage at 18 for both men and women. The Criminal Code was accordingly amended through the introduction of article 176-1 which criminalizes forced marriages and establishes specific sanctions for such actions. The Criminal Code also establishes more severe penalties for forced marriages of children.

59. Despite numerous positive developments, and the existence of implementation mechanisms and strategies that provide a framework for action, the lack of or limited implementation of laws and policies was consistently raised by interviewees. Accountability is a crucial aspect in the effective prevention and elimination of violence against women, but the Special Rapporteur observed that impunity seemed to be the norm for crimes committed against women.

60. The Special Rapporteur is of the view that the activities carried out in order to prevent violence against women cannot be considered as effective and coordinated. The efforts towards societal transformation that would address the traditional gender roles and stereotypes that continue to limit the personal, social, economic and political freedom of women in Azerbaijan are limited. Although some sporadic awareness-raising activities

³⁶ See footnote 9 above.

were undertaken, sustained prevention strategies including all concerned stakeholders, in particular women, children, men, community and religious leaders, is crucial.

61. Protective and preventive measures require the development of integrated national data collection systems, including gathering information relating to violence against women from all concerned stakeholders (police, justice, health and social services, schools, etc.). The Law on Prevention of Domestic Violence also refers to the collection of statistical information in several articles, and specifically refers to the establishment of a domestic violence databank with information on occurrence of cases, complaints made to State bodies, examinations of cases and their results, *inter alia*, as a main preventive action. Despite these provisions, at the time of the Special Rapporteur's visit, the extent of the phenomenon was difficult to assess, due to a significant lack of disaggregated data, the limited reliability of the information, the significant underreporting of cases and the lack of a centralized information system to monitor the various manifestations of violence against women.

62. In 2006, the Azerbaijan Demographic and Health Survey included a chapter on prevalence of domestic violence. The Special Rapporteur noted with concern that the results of this survey were not updated through subsequent surveys. The *National Survey Report on Domestic Violence against Women in Azerbaijan* was conducted in 2008 to examine the prevalence, root causes and consequences of violence against women.³⁷ However, the Special Rapporteur noted that the results of this survey were not sufficiently disseminated. She also noted that there has been no follow-up to the recommendations formulated in this survey. The Special Rapporteur stressed the need for research on violence against women to be broad and not to limit the scope of the surveys to domestic violence only.³⁸

B. Protection

63. Measures by which States can fulfil their due diligence obligation to protect women from violence include the provision of services such as telephone helplines, health care, counselling centres, legal assistance, access to shelters, protection orders and financial aid to victims.

64. The Law on Prevention of Domestic Violence refers to the establishment of public support centres for victims of domestic violence, in order to provide or facilitate legal and medical assistance, psychological rehabilitation, social protection and allowances, and emergency shelter, among others, on a no-cost basis. Such support centres may be established by local authorities and NGOs, and must be accredited by the relevant executive authority. Measures should also be taken to prevent the repetition of violence, and protection orders should be issued where necessary. The Special Rapporteur noted with concern that the law refers specifically to the State's duty to "assist in normalization of relations between parties and resumption of family affairs", which can be interpreted as privileging mediation and reconciliation over the protection of women's human rights.

65. Article 11 of the Law on Prevention of Domestic Violence also provides for the possibility of issuing a "warning" to the perpetrator not to use violence in the future. However, there is some confusion on whether this warning could be issued together with a short-term protection order, or if it could be used as evidence during a trial, or if it is a

³⁷ See footnote 1 above.

³⁸ According to the information provided by the Government, a database on classification of crimes was established.

prerequisite to obtain a protection order. In practice, this lack of clarity results in law enforcement personnel not taking appropriate action.

66. Regarding protection orders, the law provides for short-term 30-day and long-term 180-day protection orders for victims of domestic violence, whether the case is of a civil or criminal nature. However, considering that long-term protection orders can only be issued if and when perpetrators violate a short-term order, and that local executive bodies rarely issue short-term orders, courts therefore rarely issue long-term protection orders. According to the information provided by the Ministry of Justice, courts issued three long-term protection orders in 2013. The process and mechanism through which local executive bodies are competent to issue short-term protection orders is not in operation as yet.³⁹ Throughout her visit, the Special Rapporteur was not informed of any protection order issued by local authorities.

67. With regard to helplines available to women survivors of violence, the Special Rapporteur was informed that the NGO Clean World Aid to Women Social Union had provided a domestic violence helpline service since early 2011, with the financial support of the Organization for Security and Co-operation in Europe (OSCE). The helpline reportedly received 970 calls during its first year and almost 3,000 calls in 2012.⁴⁰ The free helpline operated 24 hours a day, seven days a week and covered issues of violence against women in the family, sexual violence and human trafficking. The Special Rapporteur regretted to learn that, due to a lack of funding, the hotline had stopped working in 2013. According to the information provided by the State, there is a hotline within the Ministry of Internal Affairs providing information and consultation services to victims of trafficking in persons, especially women and children, as well as a child hotline service, which was launched in February 2010 by the Ministry of Education. Unfortunately, there is currently no specific hotline providing assistance to women victims of violence. The telephone number that is made available by the police is a generic one for all types of complaints.

68. In terms of centres providing assistance and protection, only one shelter, operated by Clean World Aid to Women Social Union, is operational in Baku. However, according to numerous interlocutors, this shelter mainly handles cases of women victims of trafficking, and is incapable of meeting the growing demand for protection services by women victims of other manifestations of violence. The Special Rapporteur was informed that the State Committee for Family, Women and Children's Affairs was in charge of 11 regional Family and Children Support Centres throughout Azerbaijan, which are mandated to address social issues in remote regions and villages of the country. According to numerous interlocutors, most of these facilities are unable to provide shelter or the necessary psychosocial support, including rehabilitation measures which are necessary for the protection and full recovery of women victims of violence. Analysing numerous issues raised, it was clear that the State was not meeting its obligations to provide protection measures. Some issues include: the lack of necessary funding; the *ad hoc* allocation of unsuitable premises by local authorities; the choice of voluntary staff by political entities; and the lack of a dedicated professional service culture.

69. The Special Rapporteur was also informed that the State Committee, together with the Heydar Aliyev Foundation and UNFPA, was involved in the implementation of the XXI Century Without Violence Against Women Project which, among other objectives, aims at establishing and operationalizing a network of centres providing services, including shelter, to victims of violence. The Special Rapporteur visited a shelter in Khachmaz, which was

³⁹ OSCE, "Domestic violence cases in the justice system of Azerbaijan", Baku, December 2013. Available from www.osce.org/baku/110044.

⁴⁰ See footnote 7 above, p. 17.

established in the framework of this project.⁴¹ She regretted to observe that, despite the efforts of the director of the centre, the services provided were very limited. Victims do not have access to the shelter 24 hours a day, seven days a week; the building consists of two bedrooms in dire conditions with no light and no water; and no adequate legal and psychosocial support or rehabilitation measures were provided to the victims. In her interview with one woman survivor of violence in the centre, the Special Rapporteur learned that the victim had to leave her children with her violent husband on many occasions and find refuge with a neighbour to escape from violence. Despite repeated reports to the police and the local executive authorities, this situation had lasted for years. The Special Rapporteur noted that the lack of shelters throughout the country was alarming and represented a major obstacle in the protection chain. Many structures are managed by civil society organizations that work with very limited resources, and they are dependent on the contributions of financial partners. Such insecurity does not lead to sustainability and substantive responses.

C. Prosecution and punishment

70. There are several ways in which States can fulfil their obligations to ensure accountability for acts of violence against women, including by strengthening the capacities of the criminal justice system. In Azerbaijan, the main challenges relating to the investigation, prosecution and punishment of perpetrators for acts of violence against women are largely due to the minimal implementation and enforcement of the legal framework but also the lack of a gender perspective by law enforcement and judicial operators. The common resort to mediation as a means of dispute resolution is also a factor. Deeply rooted patriarchal attitudes regarding cases of violence against women by police, judicial officers, other relevant civil servants as well as community leaders and families, contribute significantly to the underreporting of cases. The Special Rapporteur also noted the low number of women working in the criminal justice sector as a contributory factor to the inappropriate handling of such cases.

71. As regards the grounds for examination of domestic violence cases, article 6 of the Law on Prevention of Domestic Violence establishes different avenues through which a complaint can be made, as well as the authorities that can receive such complaints and then submit them to relevant executive authorities. However, it does not specify which authorities will be tasked with the implementation of the law, how their responsibilities are demarcated and who will be tasked with monitoring the law.

72. An OSCE report on domestic violence cases in the justice system identified some of the main shortcomings in court proceedings of domestic violence cases, highlighting that victims were not duly informed about their rights throughout the criminal procedure.⁴² The Special Rapporteur learned about these concerns from numerous interviews with women survivors of violence. The lack of special safeguards in the criminal justice system for women victims of domestic violence was also highlighted. The Criminal Procedure Code has no specific provisions to address the particular needs and rights of women victims of domestic violence.

73. Other obstacles regarding the criminal justice system, as highlighted in interviews, include prosecutors and judges using inappropriate language, displaying discriminatory attitudes, perpetuating gender-based stereotypes towards victims and using reconciliation remedies even when they are inappropriate. Reconciliation remedies were also used as

⁴¹ Currently funded by the European Commission until November 2014.

⁴² "Domestic violence cases in the justice system of Azerbaijan" (see footnote 39 above).

grounds for terminating court proceedings. Various interviewees stated that courts tend to systematically use the reconciliation provisions of the Criminal Code and the Law on Prevention of Domestic Violence when defendants are first-time offenders, without thorough consideration of the victim's opinion regarding reconciliation, safety and other conditions required under the law. These findings are consistent with the OSCE report.⁴³

74. The Special Rapporteur regrets that no information was shared by State authorities as regards prosecution and punishment of perpetrators of violence against women. However, according to the vast majority of interviewees, the conviction rate is very low and this contributes to the lack of trust in the judicial system.

D. Provision of effective redress including reparations

75. The provision of effective remedies for victims involves ensuring the rights of women to access both criminal and civil remedies and the establishment of effective protection, support and rehabilitation services. Effective remedies must address the root causes of violence, inequality and discrimination.

76. During her visit, the Special Rapporteur could not access any data on measures to ensure redress for women victims of violence. The low rate of prosecution and convictions for acts of violence against women contributes to the lack of effective redress provided to victims. Women in Azerbaijan face numerous obstacles in accessing mechanisms of redress, including quality legal aid, counselling services and shelters.

77. The Special Rapporteur was informed that instead of being provided with proper redress, women victims of violence are re-victimized and exposed to further risk of violence through the intervention of the family, the community or the authorities as a result of out-of-court settlements. Judges are particularly reluctant to grant divorces and often encourage both parties to seek reconciliation instead of ensuring effective redress to women survivors of domestic violence.

E. Remedies for specific groups at risk

78. As illustrated above, women from IDP communities are more likely to be victims of violence, due mainly to their precarious living conditions. However, as for other women in Azerbaijan, the mechanisms put in place to protect them from violence are insufficient. According to sources, the life of an IDP woman is a daily struggle to care for children, the elderly and family members who are disabled as a result of the conflict. Women are still displaying anxiety, hesitation, passivity, excessive verbosity and other signs of post-traumatic stress. They also express a wide range of fears, including financial instability and unemployment, and also express fears of a resurgence of violent conflict.⁴⁴ The Special Rapporteur noted the considerable efforts undertaken by the Government in this regard, in particular in finding housing solutions, providing access to education and basic health services. However, according to a UNHCR report, only 30 per cent of the IDP population have benefitted from relocation measures, with many IDPs continuing to live in dire conditions in collective public buildings in urban areas as well as in rural settlements.⁴⁵

79. The Special Rapporteur heard of the particular distress experienced by women with disabilities, the severe discrimination that they were facing in particular in accessing

⁴³ *Ibid.*

⁴⁴ See footnote 15 above.

⁴⁵ See footnote 27 above, p. 8.

education and employment, and the lack of adequate assistance from the State. She regretted that very little official information was made available in this regard. Furthermore, the Special Rapporteur did not receive information about possible violence and/or discrimination faced by women in same sex-relationships and transgendered women.

V. Conclusions and recommendations

80. The Special Rapporteur acknowledges the State's commitment to the promotion and protection of human rights and the adoption of specific legal measures to achieve gender equality and non-discrimination. However, she expressed concern at the lack or limited implementation of laws relating to all forms of violence against women. The Special Rapporteur observed that violence against women was widely accepted within society and, to some extent, by women themselves, because of the traditional patriarchal values engrained in society, thereby further perpetuating impunity.

81. Although the majority of interviewees acknowledged that violence against women was widespread, the Special Rapporteur noted that the actual extent of the phenomenon was very difficult to assess due, *inter alia*, to the lack of reliable information, the underreporting of cases, the focus on mediation and reconciliation in matters involving violations of women's rights and poor implementation of laws that address the issue of accountability. State responsibility to act with due diligence to eliminate violence against women is an obligation under international human rights law to which the Government has committed.

82. The Special Rapporteur also noted the lack of specific implementation mechanisms and strategies which would provide a framework for action, and which would define clearly the roles of each stakeholder in duly promoting and protecting women's rights, including monitoring and evaluation mechanisms. Programmatic initiatives and actions have proven not to be effective responses to the violations of women's rights. Many of the activities undertaken are not sustainable and include one-off events or activities; they do not include gender specificity and display a lack of special measures for women. The Special Rapporteur highlights the necessity to develop holistic solutions to address the empowerment of women, while acknowledging and addressing the social, economic and cultural barriers that are a reality in the lives of women in Azerbaijan.

83. The Special Rapporteur would like to address the recommendations listed below to the Government of Azerbaijan.

Law and policy reforms

84. The Special Rapporteur recommends that the Government:

(a) Ensure that all concerned stakeholders duly implement existing legislation relating to the promotion and protection of women's rights, in particular the Law on Guarantees of Gender Equality and the Law on Prevention of Domestic Violence, as well as all relevant provisions of the Criminal Code and the Criminal Procedure Code;

(b) Ensure the prompt adoption of the draft law on reproductive health;

(c) Develop and implement a comprehensive multisectoral national strategy on combating violence against women, combining prevention and protection programmes, as provided in the Law on Prevention of Domestic Violence, including:

- (i) The establishment of free, sustainable and State-supported services for women victims of violence including a free helpline operating 24 hours a day and seven days a week, emergency shelters and support centres, legal and medical assistance, psychosocial support and rehabilitation measures accessible to all women in the country, without discrimination;
- (ii) Ensuring that concrete targets and indicators are developed for the effective implementation of the strategy. Establishing an independent national inquiry mechanism to review the current situation and address the remaining challenges with regard to the fulfilment of women's human rights, including the elimination of violence against women;
- (d) Undertake a mapping of the roles and responsibilities of all concerned stakeholders in the protection chain;
- (e) Implement existing guidelines and protocols to ensure the operationalization of the protection system;
- (f) Establish coordination mechanisms among State entities, in particular ministries responsible for gender-related issues, to ensure a consistent approach and effective implementation of programmes;
- (g) Ensure that police stations and courts comprise duly trained human resources and sufficient women officers;
- (h) Introduce special temporary measures to achieve substantive equality in the areas where women are underrepresented and disadvantaged, through the introduction, for instance, of quotas to foster increased participation of women in the political life and in decision-making positions of the Government;
- (i) Introduce special temporary measures to foster the advancement of women in employment;
- (j) Ensure sustainable support to income-generating activities for women, including marginalized women, in particular IDP women and women with disabilities;
- (k) Ensure the development of a comprehensive strategy regarding IDPs that includes the possibility of development, thus enhancing the prospects of IDP women to find a meaningful solution to their precarious situation. The desire for a political resolution to the occupation of land and the need for voluntary return as the preferred solution must be respected, but not to the detriment of women's development. In this regard, the Special Rapporteur further recommends that the international community intensify efforts aimed at the speedy resolution of the issue of occupation of land, in accordance with the norms and principles of international law and the provisions stipulated in General Assembly resolution 62/243;
- (l) Ensure that women with disabilities have access to appropriate services and opportunities;
- (m) Create an independent national women's human rights institution;
- (n) Ensure that NGOs working in the promotion and protection of women's rights can perform their work without any form of restriction, harassment or reprisal related to their activities.

Accountability

85. The Special Rapporteur recommends that the Government:

- (a) Take effective measures to ensure access to justice and effective redress for all women victims of violence and ensure an appropriate response from all concerned stakeholders (police, justice, local authorities, health and social services);
- (b) Ensure that all allegations of violence against women are properly investigated by the police;
- (c) Ensure that police and justice officers are trained to identify and assist the victims and act in a professional and non-judgmental manner;
- (d) Ensure that cases of violence against women are promptly and adequately dealt by the police, the judiciary and the concerned social services;
- (e) Ensure that short-term or long-term protection orders are issued when appropriate;
- (f) Ensure that perpetrators are brought to justice and duly punished if found responsible;
- (g) Establish a monitoring system on the implementation of judicial decisions on cases related to violence against women and ensure that victims have prompt access to effective remedies;
- (h) Ensure that State authorities who fail to respond are held accountable for failure to protect and prevent;
- (i) Ensure that women and family members intending to report cases of violence do not face any act of intimidation, threat or harassment, and that protection is provided free of cost for the victim, if necessary;
- (j) Ensure legal, housing, security and financial assistance measures for victims of violence that enable them to pursue accountability for crimes;
- (k) Ensure that religious leaders and parents involved in cases of early/forced marriages are duly prosecuted.

Societal transformation, including awareness-raising, addressing gender stereotypes and women's empowerment

86. The Special Rapporteur recommends that the Government include in the national strategy on combating violence against women comprehensive prevention measures based on:

- (a) Training programmes for police and judicial officers as well as social workers handling cases of violence against women;
- (b) Awareness-raising activities involving a wide spectrum of actors from both the governmental and non-governmental sectors, targeting community and religious leaders, as well as men and family members in order to combat subordinating and stereotypical attitudes. The initiatives should take into account the local cultural and socioeconomic contexts;
- (c) Targeted actions aiming at removing the barriers that prevent women from disclosing violence and eliminating stigma related to victims of violence who resort to public services for protection and support;
- (d) A countrywide campaign, with a special focus on rural areas, to increase women's legal literacy, through outreach/education on women's rights, in particular on the nature of legal protection provided to women victims of violence under the legislation;

- (e) Gender-sensitive programmes in the school curricula tackling issues such as early/forced marriages, school dropouts, violence in the family and in the community, and discrimination issues;
- (f) The revision of school textbooks and materials replicating gender stereotypes;
- (g) Designing the education policy of the country so as to enable women to access education and training in fields which benefit them as regards employment opportunities in the flourishing sectors of the economy;
- (h) Training and sensitizing the media on issues related to women's rights and violence against women in particular, so as to contribute to changing cultural and social beliefs based on patriarchal norms that perpetuate harmful stereotypes and myths about women.

Statistics and data collection

87. The Special Rapporteur recommends that the Government:

- (a) Ensure consistent data collection and analysis on violence against women, through the establishment of a standardized and centralized information system that receives information from the police, justice, health and social services. Data on the victim and the perpetrator should be disaggregated by sex, age, relationship, disability and other relevant characteristics;
- (b) Develop a system for monitoring school dropout rates of girl children, in particular in regions with a high percentage of child marriages;
- (c) Conduct regular analysis of data, to understand the different trends and evolutions of manifestations of violence against women, including marginalized women such as IDP women, women with disabilities, women in same-sex relationships and transgendered women;
- (d) Undertake regular monitoring on the level of women's representation in the political sphere but also in the judiciary, the law enforcement sector and the public sector in general;
- (e) In cooperation with civil society organizations, develop monitoring and evaluation tools to assess progress in eradicating violence against women and integrate such tools in the design of relevant schemes and programmes.



General Assembly

Distr.: General
6 June 2014

English only

Human Rights Council

Twenty-sixth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

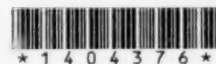
Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo

Addendum

Mission to India: comments by the State on the report of the Special
Rapporteur*

* Reproduced as received.

GE.14-04376 (E)



* 1 4 0 4 3 7 6 *

Please recycle



1. India respects the views expressed by the Special Rapporteur on Violence Against Women, its Causes and Consequences in her Report based on her understanding developed during the visit. India also acknowledges the independence that a Special Rapporteur ought to exercise while presenting the conclusions, and finding thereof, in the country Report.

2. India is constrained to make certain observations on the Report of the Special Rapporteur as there are too many instances in the Report that leads a conclusion that the Report lacks full objectivity and exhibits a tendency to over-simplify the issues at hand. It is rather difficult to comprehend the reasons for the Special Rapporteur, who despite her learned experience, has taken rather a simplistic approach while drawing conclusions, and thereafter present them as her findings. The proclivity for making unsubstantiated yet sweeping generalizations is very high in the Report, which tends to point to either a lack of understanding of issues or a high degree of prejudice playing a predominant role while arriving at such conclusions.

3. We do not agree with the labeling of "violence against women in India as systematic", as noted in Paragraph 8. Such a sweeping remark smacks of a highly prejudiced state of mind. It also fails to recognize that India, the world's largest democracy, values and respects the rule of law as one of its major strengths.

4. We also do not agree with the remark in Paragraph 9 that "physical, sexual and psychological abuse of women in the private sphere is widely tolerated by the State and the community". Such a general remark once again is baseless. In fact, the report itself in paragraph 50, recognizes the "outrage and condemnation that followed the 16th December 2012 incident where there was widespread social mobilization of citizens demanding justice, accountability and more protection for women and girls". Further, the report also mentions various measures taken by the State in addressing these challenges.

5. On the issue of 'honour crimes' mentioned in Para 11 of the report, it may be noted that the Nineteenth Law Commission of India in its Report No. 242 had proposed 'Prevention of Interference with Freedom of Matrimonial Alliance (in the name of Honour and Tradition): A Suggested Legal Framework' in August 2012. The report of the Law Commission is recommendatory in nature, and such recommendations are given due consideration by the Government.

6. In paragraph 14, the report refers to "executions, commonly referred to as witch-hunting" and alleges that there is "little or no official investigations into such violations". By placing this paragraph after the remarks in paragraph 13 that says "sexual violence, including rape and sexual harassment, are widespread across the country", the report makes it appear as if this is a national phenomenon. Taking such isolated local incidents and generalizing them for the entire country brings into question the understanding of the Special Rapporteur has of the issue as well as of the country. Official investigations are always conducted when complaints are registered or an incident comes to light. It would have been a fair demand if the Special Rapporteur had brought to the attention of the Government during her visit of specific instances that came to her notice where there was no action taken despite a complaint being lodged. Such information would have facilitated the Government to investigate into such cases and also revert to the Special Rapporteur.

7. The reference in Para 54 of the report that, "the National Mission for Empowerment of Women (NMEW), an entity located in the Prime Minister's Office" is factually inaccurate. The Gazette notification dated 18 March 2010 states that, 'the NMEW shall have National Mission Authority (NMA) at the apex level under the Chairmanship of Hon'ble Prime Minister'.

8. With regard to the concerns raised in the report about LGBT rights and same sex relationships, it is to be noted that Indian law does not permit these rights under Section 377 of the Indian Penal Code. In a recent decision (*Suresh Kumar Koushal v. Naz Foundation*

(India) Trust, 2013), the Supreme Court while setting aside Delhi High Court's decision ruled that the Parliament has to legislate on the issue and upheld Section 377 of the Indian Penal Code, as it still remains in the statutes of the country.

9. Paragraph 57 erroneously mentions that India has seven National Human Rights Institutions. India has only one National Human Rights Institution which is the National Human Rights Commission (NHRC). There are twenty three (23) State Human Rights Commissions dealing with human rights in respective States in the country.

10. The allegation that religious minorities are excluded from accessing education, employment and adequate housing on equal terms with other citizens is totally baseless. In fact, there are special affirmative actions for such minorities who are given special attention by the Ministry of Minority Affairs as well as the Commission on Minorities. The Ministry of Minority Affairs also have undertaken various schemes and measures to improve the empowerment of women including the "leadership development of minority women with the objective to empower and instill confidence among minority women including their neighbours from other communities living in the same village/local by providing knowledge, tools and techniques for interacting with banks and other institutions at all levels.

11. With regard to the 'two-finger test' referred to in Para 64, it may be noted that the Director General of Health Services (DGHS) in 2011 discontinued the practice of 'two-finger' test. Further, the Supreme Court in 2013 referred that the two-finger test on a rape victim violates her right to privacy.

12. The Report is replete of sweeping statements and generalized allegations not substantiated by facts. In the absence of details of allegations, the Government is not in a position to verify them and, therefore, requests the Special Rapporteur to provide details, failing which she should refrain from making such statements or generalized allegations. The following are some examples:

- i. the State is policing pregnancies (Para 12).
- ii. Sexual violence, including rape and sexual harassment are widespread across the country (Para 13).
- iii. There is high incidence of acid attack (Para 16).
- iv. There is a consistent failure in implementation of laws, and that the practices continue. This is not acceptable in a country where rule of law is valued and respected and there is a vigilant judiciary and citizenry (Para 17).
- v. The Special Rapporteur was informed of a troubling practice whereby a payment incentive was offered (either in a States schemes or dowry in a family) in exchange for marriage to women with disabilities. She was also informed of violence perpetrated in State-sponsored shelters against women with disabilities (Para 20).
- vi. Women living in military regions such as the Jammu & Kashmir and the North Eastern States lives in a constant state of siege and surveillance. (Para 24).
- vii. Information received through both oral and written testimonies highlighted the use of mass rapes allegedly by members of the States Security Forces as well as acts of enforced disappearances, killings and acts of torture and ill-treatment which are used to intimidate and counter-act political opposition and insurgency (Para 24).
- viii. The States effort to foster economic growth and to implement development projects are allegedly often conducted without adequate consultations with affected

communities: with the sole objective being of one of economic growth at any cost. (Para 26).

ix. Trafficking of women and girls to and from India was reported as widespread. (Para 29)

x. Despite these positive developments, effective implementation of these laws and the allocation of financial resources to adequately support their execution is reportedly lacking in many instances. (Para 32)

xi. Numerous allegations were made of de facto caste based discrimination perpetrated by police officers, public representatives and community members, with regard to access to services. (Para 60)

xii. Concerns were highlighted that the criminal justice system does not fully operate on the basis of the rule of law in accordance with international standards. (Para 61)

xiii. Impunity for crimes related to communal violence is the norm. (Para 67)

xvi. SR's conclusion that the lack of effective redress provided to victim is a "factor that contributes to a culture of normalization of violence against women". (Para 70)
